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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,793	02/27/2006	Toshiyuki Kanai	040894-7413	6625
9629 7590 08/29/2008 MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004				
EXAMINER				
LOPEZ, MICHELLE				
ART UNIT		PAPER NUMBER		
3721				
MAIL DATE		DELIVERY MODE		
08/29/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/569,793

Applicant(s)

KANAI ET AL.

Examiner

Michelle Lopez

Art Unit

3721

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 7/15/8/8/12/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the amendment filed on May 2, 2008.
2. New claim 12 has been added.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4 and 7-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 7-8, and 12 are indefinite in that it is unclear how the forming plate is capable of forming the staple member which is arranged "above" the movable anvil. The specification and the drawings have been carefully reviewed by the examiner, and it is the opinion of the examiner that there is no support for said staple members being arranged above said movable anvil. Clarification is requested.

Claim Rejections - 35 USC § 103

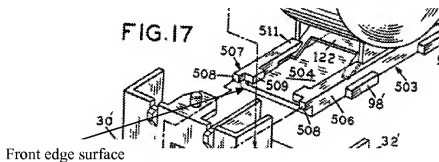
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olesen et al. 4,573,625 in view of Sesek et al 6,923,360. Olesen discloses a stapler comprising a cartridge 90 with staple members in a straight shape 94, a striking portion formed with a striking

path, a magazine 32, a staple supply mechanism formed in the magazine as shown in Figs. 9-10, a forming plate 70 that forms the staple member in a c-shape, a driver plate 80, a clincher mechanism that folds and bends a leg of the staple member as shown in Figs. 5-6, a movable anvil via 60, a staple guide via 504 that guides the connected staples to the striking portion (fig. 17 and 21; col. 11, lines 37-53).

With respect to claim 1, Olesen also shows a fixed anvil formed at a front end portion of the staple guide via extensions 508, lids 509, and front edge portion of 504. Note that the extensions 508 and lips 509 hold the lead staple member into the striking path while the guide's front edge portion support said lead staple against it while deformation occurs.



With respect to claims 2-4 and 9-11, Olesen also discloses wherein the driver plate 80 and the forming plate 70 are operated on a same plane (claim 2); wherein the forming plate is formed by a plate member with legs 72 having a thickness substantially as claimed and wherein the driver plate is formed by a plate member having a thickness at 180 substantially the same as a width dimension of a section of the staple member (claim 3); and wherein the striking portion is formed at a front end of 102 of the cartridge 90 (claim 4); wherein the fixed anvil portions 508, 509 protrude into a plane in which the forming plate moves up and down as shown in fig. 21

(claim 9); a recess portion 77 formed on the forming plate 70, wherein the driver 86 is contained in said recess portion as shown in figs. 10-11 (claim 10); and wherein a width of the movable anvil 60 is smaller than a width of the fixed anvil as shown in fig. 20 (claim 11).

With respect to claims 1 and 7-8, Olesen fails to disclose wherein the forming plate forms two successive staple members simultaneously. Sesek teaches the concept of stapler having a forming plate 160 and an anvil member 110, said forming plate 160 is capable of forming more than one staple 42 simultaneously (see col. 12, lines 6-24) for the purpose of minimizing a force required to drive the staples into a stack of papers. It would have been obvious to one having ordinary skill in the art to have modified the width of Olesen's forming plate as taught by Sesek in order to form two staple members simultaneously into c-shaped staples.

As far as claim 12 was understood, to increase the width of Olesen' forming plate legs 72 as taught by Sesek above, would have being obvious to one having ordinary skill in the art for the purposes of simultaneously forming two successive staple members positioned between Olesen's movable and fixed anvil.

Response to Arguments

5. Applicant's arguments filed 5/2/08 have been fully considered but they are not persuasive. Applicant argues that Olesen fails to disclose a fixed anvil. This is not agree with by the examiner for the reasoning set forth above in the rejection.

For the reasons above, the grounds of rejection are deemed proper.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ML/
Patent Examiner

/Rinaldi I Rada/
Supervisory Patent Examiner, Art Unit 3721